

**HUD/Performance Based Contract Administrator Call**  
**December 8, 2004**  
**2 PM – 3:30 PM**

1. **New Business**

**New FAQs**

- New Frequently Asked Questions were added to the HUD website on December 3, 2004. Deborah Lear also said some of the older FAQs need to be reviewed to determine whether the information remains pertinent. The site will be reviewed and revised accordingly and subject matter will be bundled by topic for easier reference.

2. **Performance Based Contract Administration Updates**

**Memo dated 10/8/04 “Contract Administrator/Performance Based Contract Administration Responsibilities on Projects Referred to the DEC”**

- Some PBCAs were getting letters from the Departmental Enforcement Center (DEC) for signature regarding notice of default without any direction on the responsibility of the PBCA. The memo states PBCAs will infrequently be responsible for signing the notice of default letter. There is no follow up responsibility for the PBCA besides signing the letter. Section 3a (6) of the PB-ACC in addition to HAP contract language, gives HUD the authority to make this request of the PBCAs. The paragraph states the following:

“The PHA shall take prompt and vigorous action, to HUD’s satisfaction, and as required or directed by HUD, to enforce owner compliance with the terms of HAP contracts for covered units. Such actions include requiring actions by the owner to cure a default, termination, or abatement or other reduction of housing assistance payments, termination of the HAP contract, or recovery of overpayments. ...”

Several PBCAs expressed concern over whether PBCAs have the authority to sign the notices, while other PBCAs did not want to be included on every notice of default. Deborah Lear said on those occasions as necessitated, based on the language in the HAP, PBCAs would be the entity with the authority to sign the subject letter. The determination of who is the responsible entity for signing the Notice of Default letter will be based upon DEC’s due diligence review of the applicable HAP documentation.

The communication protocol was reiterated that PBCAs should not directly contact any of the central HUD operation offices; DEC, OHMAR, REAC. The CAOMs will serve, as the conduit for the PBCA should contact be required with any of these HUD offices.

### **PBCA Utility Analysis Processing--owner documentation**

- Deborah Lear said she had heard from owners that different PBCAs are requiring different information from the owners in order to review the utility analysis submission. She asked whether the PBCAs could reach consensus on a single national standard. New York admitted they have stricter document requirements due to comments from a HUD compliance review.

MassHousing's Alan Sharkey volunteered to help frame a proposal on a national standard. Comments should be emailed to him by January 14, 2005 at [asharkey@masshousing.com](mailto:asharkey@masshousing.com).

Any recommendations submitted to HACAO will be forwarded to the appropriate HUD multifamily office for consideration.

### **Calculating Business Days**

- The only holidays recognized are federal holidays, not state, local, or religious holidays. Emergency closings due to disasters or terrorist attacks should be recognized and accommodated, but they are not considered holidays. An FAQ will be posted about this in regards to calculating business days for the purpose of PB-ACC IBPS requirements.

### **Medicare Prescription Drug Card**

- The new \$600 prescription benefit allows seniors to apply for and receive up to \$600 credit when purchasing their prescriptions. At issue is ensuring that the elderly residents are not be penalized by the counting this benefit as income for rent purposes and the methodology with which owners/managers are utilizing in order to calculate the prescription costs in the event pharmacies do not provide the actual prescription price. Colleen Bloom said while the new prescription benefit is a good thing, she is concerned about owners' ability to verify drug costs.

HUD Notice 2004-11 was issued to provide guidance in making these determinations and was followed up by HUD Notice 2004-24 for further clarification on how to verify these costs. However there is still a need for additional clarification, which has been brought to the attention of Mr. Willie Spearmon and Mr. Stillman Knight.

### **Signatory clarification for EH&S Certification**

- This issue was raised during the call as follow up to information provided by HUD multifamily asset management in a presentation at the Hub Director conference.

In the past, HUD required owners to sign the EH&S certification however, this policy has been revised and the EH&S certifications now can be signed by either the owner or management agent. If the management agent signs the EH&S certification they must be the approved agent of record pursuant to the management agent and 2530 Previous Participation approval process. Multifamily Asset management provided follow up notification in an e-mail issued by Eric Ramsey, Office of Housing, Multifamily Asset Management, dated June 4, 2004. This revision will be included in the REAC inspection guidance, which will be updated to consolidate and reflect current policy.

**Next call will take place in late January and will not include CAOMs.**

Please email all topic suggestions to Mike Cohen at [mcohen@ncsha.org](mailto:mcohen@ncsha.org).